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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/620,572	07/20/2000	Alexander Ferguson	29699.010300	3887

22191 7590 02/11/2004

GREENBERG-TRAURIG  
1750 TYSONS BOULEVARD, 12TH FLOOR  
MCLEAN, VA 22102

EXAMINER

NALVEN, ANDREW L

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 02/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/620,572

**Applicant(s)**

FERGUSON, ALEXANDER

**Examiner**

Andrew L. Nalven

**Art Unit**

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/20/2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. Claims 1-19 are pending.
2. The IDS submitted 12/19/2000 has been received and considered.

### ***Drawings***

3. New corrected drawings are required in this application because Figures 3 and 4 are difficult to comprehend because the handwritten labels are difficult to read and it is unclear what items lines and arrows are referring to. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1-2 and 9-10 are rejected under 35 U.S.C. 102(a) as being anticipated by Glaser et al US Patent No 5,793,980. Glaser teaches an audio on demand communication system.

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6. With regards to claim 1, Glaser teaches the capturing of a live performance (Glaser, column 5 lines 40-44), the converting of the signals to a digital format (Glaser, column 5 lines 47-52), the encoding of the digitally formatted signals into a portable file (Glaser, column 6 lines 15-22), and the transporting of the portable file over a network (Glaser, column 6 lines 32-34, Figure 1 and 2A).

7. With regards to claim 2, Glaser teaches the receiving of the portable file (Glaser, column 25 lines 17-21), the publishing of the file for use by an end user (column 25 lines 30-36), and the transporting of the file to an end user (column 25 lines 37-56 and 19-29).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3, 5-6, 11, and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glaser et al US Patent No 5,793,980 in view of Tewfik et al US Patent No 6,442,283. Glaser, as described above, fails to teach the inserting of a digital watermark through an subtle or invisible method. Tewfik discloses the inserting of a digital watermark into multimedia data (Tewfik, column 2 lines 50-53) through an invisible method (Tewfik, column 3 lines 10-29) and a subtle method (Tewfik, column 7 lines 1-15). At the time the invention was made, it would have been obvious to a person

of ordinary skill in the art to utilize Tewfik's method of inserting a watermark into a music file with either the invisible or subtle watermarking techniques because they offer the advantage of allowing data to be embedded into media that would help an owner prove ownership of the data in the event that it is illegally distributed (Tewfik, column 1 lines 9-33).

10. Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glaser et al US Patent No 5,793,980 and Tewfik et al US Patent No 6,442,283 as applied to claim 3 above, and further in view of Leighton US Patent No 5,664,018. Glaser as modified fails to teach the insertion of a digital watermark using the brute force method. Leighton teaches the insertion of a watermark using the brute force method (Leighton, column 3 lines 6-9, column 4 lines 38-41, column 5 lines 16-17). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Leighton's brute force method of inserting a watermark because it offers the advantage of providing the benefits of identification of a watermark and also inhibiting an attack on the watermark by averaging two copies of a particular document (Leighton, column 1 lines 128-28 and 52-64).

11. Claims 7-8 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glaser et al US Patent No 5,793,980 in view of Cook et al US Patent No 6,338,044. Glaser, as described above, fails to teach the portable file being of an MP3 or WAV type. Cook teaches a personal digital content system in which the portable files

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are of the type WAV and MP3 (Cook, column 3 lines 18-22). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize Cook's suggested file encoding types because it offers the user a choice of a higher sound quality WAV file or the more compressed MP3 file that is more quickly downloaded over the Internet (Cook, column 1 lines 20-32).

12. Claims 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glaser et al US Patent No 5,793,980 in view of Mouri US Patent No 6,052,470.

13. With regards to claim 18, Glaser teaches a capture device which receives a plurality of analog signal and converts the signals to digital signals (Glaser, column 5 lines 40-55, Figure 2A), a processing unit for converting the combined signal to a digital signal (Glaser, column 5 lines 47-52), and a digital signal processor for a digital signal for converting a signal to a portable file (Glaser, column 6 lines 15-22). Glaser fails to specifically teach the use of a multiplexer for combining digital signals or the inclusion of a processing unit for converting the combined signal into a plurality of digital signals. Mouri teaches a system for processing audio surround sound including a multiplexer for combining digital signals into a combined signal (Mouri, column 19 lines 40-45) and a processing unit for converting the combined signal to a plurality of digital signals (Mouri, column 19 lines 66-67). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to include Mouri's multiplexer and processing unit because they offer the advantage of allowing multiple audio signals to be used for a

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recording allowing the use of surround sound (Mouri, column 2 lines 54-55, column 3 lines 50-61).

14. With regards to claim 19, Glaser as modified teaches the multiplexer separated from the processing unit (Mouri, Figure 18).

### ***Conclusion***

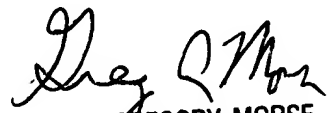
15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew L Nalven whose telephone number is 703 305 8407. The examiner can normally be reached on Monday - Thursday 8-6, Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on 703 308 4789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew Nalven

AN

  
GREGORY MORSE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

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